

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

\_\_\_\_\_  
BALLARD NURSING CENTER, INC.,

*Plaintiff,*

v.

MID AMERICAN GROUP, INC. and  
JOHN DOES 1-10,

*Defendants.*

\_\_\_\_\_

Civil Case No. 08-1007

*Honorable James B. Zagel*

*Magistrate Judge Mason*

**AGREED MOTION FOR ENLARGEMENT OF TIME**

Pursuant to Rule 6(b)(1) of the Federal Rules of Civil Procedure, Mid American Group, Inc. ("Mid American"), through its undersigned attorneys, requests an enlargement of time, to and including Tuesday, March 18, 2008, in which to answer, move, or otherwise plead against the Plaintiff's Complaint. In support of its motion, Mid American states as follows:

1. Plaintiff filed the class action Complaint commencing this action in the Chancery Division of the Circuit Court of Cook County on January 17, 2008. The Complaint alleges in Count I that Mid American sent 12 unsolicited advertisements over a 4-year period to Plaintiff's fax machine, thereby violating the Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394 (1991), as amended by the Junk Fax Prevention Act of 2005, Pub. L. No. 109-21, 119 Stat. 359 (2005), codified in relevant part at 47 U.S.C. § 227(b)(1)(C). Plaintiff alleges in Counts II and III that by sending such faxes, Mid American also engaged in an "unfair practice" prohibited by the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2, and unlawfully converted Plaintiff's fax paper and ink to its own use.

2. For these alleged violations, Plaintiff seeks to recover, on behalf of itself and a putative class, economic losses occasioned by the deprivation of the paper and ink consumed by

the receipt of the 12 faxes, plus statutory damages under 47 U.S.C. § 227(b)(3), attorney's fees, litigation expenses and costs of suit. Plaintiff also seeks an injunction against the transmission of additional faxes.

3. Without admitting the sufficiency of process, or the sufficiency of service thereof, Mid American states that it received no sooner than January 25, 2008, a copy of the Summons and Complaint from Plaintiff. Without answering the Complaint, Mid American timely removed this action to federal court on February 19, 2008, well before the 30-day period after receipt of Summons in which to answer, move or otherwise plead had elapsed under State court procedure.

4. By operation of Federal Rules of Civil Procedure 6(a) and 81(c), the time period within which Mid American must answer, move, or otherwise plead against the Complaint in this removed case will expire on Tuesday, February 26, 2008, unless enlarged by order of this Court.

5. Defendant's undersigned attorneys will not, by that date, have had an opportunity to conduct an investigation concerning the factual contentions set forth in the Complaint, or the factual and legal contentions that may be appropriate for Mid American to advance in response thereto, sufficient to frame an appropriate response to the Plaintiff's pleading consistent with the high standards the Court is entitled to expect from the attorneys who appear before it.

6. Given these circumstances, Mid American's counsel contacted Plaintiff's counsel on this day, and requested that Plaintiff agree to a 28-day period of time following the date of removal for Mid American to answer, move, or otherwise plead against the Complaint.

7. Plaintiff's counsel indicated that Plaintiff has no objection to the period of time requested.

8. It is respectfully submitted that the foregoing constitutes "cause" within the meaning of Rule 6(b)(1) for the enlargement of time Mid America requests by this motion.

WHEREFORE, Defendant prays that the Court grant this motion and enter an order enlarging the time period within which Mid American may answer, move, or otherwise plead

against the Plaintiff's Complaint, to and including March 18, 2008.

Dated: February 20, 2008

MID AMERICAN GROUP, INC.

By: /s/ Gregory L. Stelzer  
One of Its Attorneys

Michael K. Desmond (6208809)  
Gregory L. Stelzer (6256727)  
FIGLIULO & SILVERMAN, P.C.  
10 South La Salle Street, Suite 3600  
Chicago, Illinois 60603  
Telephone: (312) 251-4600  
Facsimile: (312) 251-4610